

217-A

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-29610-2021

Date of decision : 29.09.2021

Rahul and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Surinder Sharma, Advocate for the petitioners.

Mr. Karanbir Singh, AAG, Punjab.

Mr. Lovish Rattan, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of F.I.R No. 122 dated 24.06.2020 registered under Sections 452, 323, 324, 427, 506, 148, 149 of the Indian Penal Code, 1860 at Police Station Bhargo Camp, District Jalandhar (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of the compromise dated 17.08.2020 (Annexure P-3), qua the petitioners.

On 29.07.2021, the Coordinate Bench of this Court was pleased to pass the following order:-

“Petitioners accused Rahul, Rohit @ Peeter, Ajay Kumar @ Ajai, Rahim @ Sudama and Rajat Kumar @ Razi in F.I.R No. 122 dated 24.6.2020 under Sections 452, 323, 324, 427, 506, 148, 149 IPC registered with Police Station Bhargo Camp, District Jalandhar have filed the instant petition seeking quashing of the F.I.R on the basis of

compromise said to have been arrived at between them and complainant respondent No.2 Rakesh Roshan. On being asked, learned counsel for the petitioners has contended that all the accused petitioners in this case have joined the investigation; challan has been filed in the Court; charge has been framed and now the case is listed for 30.7.2021 for the purpose of framing of charge.

Notice of motion.

Mr. J.S. Ghuman, DAG, Punjab has accepted notice on behalf of State of Punjab and Mr. Lovish Rattan, Advocate has appeared for complainant respondent No.2. He admits the factum of compromise between the parties.

Under the circumstances, the parties are directed to appear before the trial Court within one month from today to get their statements recorded regarding compromise. The trial Court is to report whether the compromise has been entered into voluntarily, without any threat or coercion and the same is genuine. It be also intimated whether any of the parties has been declared proclaimed offender. Report in that regard be sent to this Court by next date of hearing.

Adjourned to 29.9.2021.”

In pursuance of the said order, a report has been submitted by the Judicial Magistrate Ist Class, Jalandhar to the effect that in the said case, complainant-respondent No.2-Rakesh Roshan has recorded his statement with respect to the compromise and all the accused except Rahim @ Sudama and Rajat Kumar Razi had not appeared for recording their statements.

Learned counsel for the petitioners has submitted that even he has instructions from the said two persons that they are praying for quashing of the present FIR. It is further been pointed out that in the connected case i.e. CRM-M-29614-2021, in which quashing of cross case i.e. D.D.R. No.017

dated 01.08.2020 registered under Sections 323, 341, 506, 148, 149 of the Indian Penal Code, 1860, has been sought on the basis of same compromise dated 17.08.2020, has also been allowed. It is further been pointed out that in the said case also, report was called for and relevant portion of the report in the said case is reproduced hereinbelow:-

“Statements of accused Rakesh Roshan, Sarabjit Kumar, Paramjeet Kumar, Harjinder Kaur, Gulshan Kajla, Bhajan Kaur and Davinder Kumar @ Deepu have also been recorded separately, wherein they stated that they have compromised the matter with the complainant voluntarily and the same is without any pressure, coercion and undue influence. The accused further proved the copies of their aadhar cards Ex.CZ/1 to Ex.CZ/7. They also submitted that they have not been declared proclaimed offenders by any court nor any proclamation proceedings are pending against them. Both the parties were duly identified by their counsels.

Further, I have also examined the parties in person and I am of the opinion that the parties have entered into the compromise voluntarily and without any pressure or coercion from any quarter. As such, in view of the statements of the parties as well as after their examination in the court, I am of the view that compromise has been validly effected between the parties to the abovesaid DDR in cross version FIR as per their free will and without any kind of pressure, threat or undue influence. It is also submitted that any of the parties has not been declared proclaimed offender in the present FIR till date.

Report submitted please.

Yours faithfully

Sd/- (Jaginder Singh)

*Judicial Magistrate Ist Class,
Jalandhar, UID No.PB00485”*

It has further been pointed out that in fact, the statement of Rakesh Roshan who is petitioner No.1 in the connected case i.e. CRM-M-29614-2021 and is respondent No.2 in the present case being complainant, was also recorded and he had also stated that the compromise is genuine and bona fide. The statement of accused Rakesh Roshan as recorded in the said case has been referred to and the same is reproduced hereinbelow:-

“Statement of accused Rakesh Roshan, s/o Dev Raj R/o Jallowal Abadi, near Dera Sunehri, Jalandhar.

Stated that matter has been compromised with the complainant Rahul s/o Karamyogi R/o Ward No.3, Mohalla Uchi Ghati Tehsil Phillor, District Jalandhar at present tenant with Amit Pardhan Ambedkar Sena United Jallonwal Abadi, Jalandhar. I have filed a quashing petition CRM-M-29612-2021 before the Hon'ble High Court of Punjab and Haryana High Court of present cross case in FIR bearing No.122 dated 24.06.2020 under Section 323, 324, 427, 506, 148, 149 IPC PS Bhargo Camp, Jalandhar registered against me. I have entered into compromise dated 17.08.2020 Ex.CA with the above-said complainant Rahul. The said compromise dated 17.08.2020 i.e. Ex.CA is genuine and arrived at with free consent and without any pressure, coercion, undue influence and inducement from any quarter. I have no grudge or ill will against the Rahul. So, the present above mentioned cross case DDR No.017 in FIR No.122 may kindly be quashed in view of our compromise, I have brought copy of my identity card i.e. Aadhar card and same is Ex.CZ/1. I have been not declared P.O. in the present case and no PO proceedings are pending against me in any court.

RO&AC

Sd/-(Jaginder Singh)

Sd/- Rakesh Roshan

JMIC Jalandhar

23.08.2021”

It has been submitted by learned counsel for the petitioners that the parties in the compromise dated 17.08.2020 are the same persons and the complainant in the present case has already made a statement and thus, prayed that FIR and all other subsequent proceedings arising therefrom be quashed qua the petitioners.

Learned counsel for the State has also submitted that he has no objection in case the present FIR and all other subsequent proceedings arising therefrom are quashed qua the petitioners in view of the compromise effected between the parties.

Learned counsel for the complainant/respondent No.2 has again reiterated that the matter has been settled and the said compromise is in the interest of all the persons and would help in bringing out peace and amity between the two parties.

As per the Full Bench judgment of this Court in ***“Kulwinder Singh and others Vs State of Punjab”***, 2007 (3) RCR (Criminal) 1052, it is held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court feel that the same was required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble the Apex Court in the case of ***“Gian Singh Vs. State of Punjab and another”***, 2012 (4) RCR (Criminal) 543, had also observed that in order to secure the ends of justice or to prevent the abuse of process of Court, inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected. The relevant portion

of para 57 of the said judgment is reproduced hereinbelow:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. XXX---XXX”

This Court has heard the learned counsel for the parties and has perused the file. After perusing the report submitted by the trial Court, this Court finds that the matter has been amicably settled between the petitioner and the complainant. Since the matter has been settled and the parties have decided to live in peace, this Court feels that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

In view of what has been discussed hereinabove, the petition is allowed and F.I.R No. 122 dated 24.06.2020 registered under Sections 452, 323, 324, 427, 506, 148, 149 of the Indian Penal Code, 1860 at Police Station Bhargo Camp, District Jalandhar (Annexure P-1) and all the subsequent proceedings arising therefrom on the basis of the compromise dated 17.08.2020 (Annexure P-3), are ordered to be quashed, qua the petitioners.

29.09.2021

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No